

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

WAYNE ROSE,

Plaintiff,

- against -

21-cv-9164 (JGK)

RESHMA SHAH, ET AL.,

Defendants.

ORDER

JOHN G. KOELTL, District Judge:

On January 10, 2023, the Court received a letter from the defendants informing the Court that the pro se plaintiff, Wayne Rose, had died. ECF No. 33. On January 11, 2023, the Court directed that any motion for the substitution of a proper party for Mr. Rose should be filed by April 10, 2023. ECF No. 34. That Order was made pursuant to Rule 25(a)(1) of the Federal Rules of Civil Procedure, which states that when a party to a lawsuit dies, a motion for substitution of the proper party by any party or by the decedent's successor or representative must be "made within 90 days after service of a statement noting the death." Fed. R. Civ. P. 25(a)(1). Otherwise, "the action by or against the decedent must be dismissed." Id.

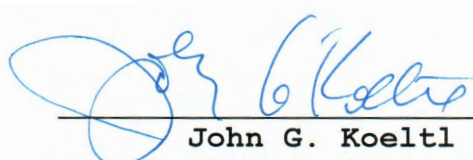
More than 90 days now have passed after service of the statement noting that Mr. Rose had died, yet no motion for substitution has been made, nor has anyone requested an extension of time to file such a motion. Accordingly, this action is **dismissed without prejudice**. The Clerk is directed to

close this action and all pending motions. The Clerk is also directed to mail a copy of this Order to the plaintiff's address listed on the docket and to note such mailing on the docket.

SO ORDERED.

Dated: New York, New York
April 26, 2023

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John G. Koeltl
United States District Judge